

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

Billy Raymore Smith, )  
Plaintiff )

vs. )

BNSF Railway Co., )  
Defendant )

Case No. 08-1203-D

January 2010 TRIAL DOCKET

**SCHEDULING ORDER**

Date 3-4-09 Judge Timothy D. DeGiusti Clerk Mike Bailey

Appearing for Plaintiff Tom Wright

Appearing for Defendant Laura Eakens

☒ JURY TRIAL DEMANDED - ☐ NON-JURY TRIAL

**THE FOLLOWING DEADLINES ARE SET BY THE COURT**

1. Motions to join additional parties to be filed by **within 15 days of this order.** objections to plaintiff's final exhibit list, under Fed. R. Civ. P. 26(a)(3)(B), by **within 11 days.**
2. Motions to amend pleadings to be filed by **within 15 days of this order.** Defendant to file a **final exhibit** list 10 days thereafter.\* Plaintiff to file objections to defendant's final exhibit list, under Fed. R. Civ. P. 26 (a)(3)(B) by **within 11 days.**
3. Plaintiff to **file a final** list of expert witness(es) in chief and expert reports by September 21, 2009.\* Defendant to file a **final** list of expert witness(es) in chief and expert reports to plaintiff October 5, 2009 days thereafter.\*  
**\*The listing of witnesses and exhibits shall separately state those expected to be called or used and those which may be called or used if the need arises. Except for good cause shown, no witness will be permitted to testify and no exhibit will be admitted in any party's case in chief unless such witness or exhibit was included in the party's filed witness or exhibit list.**
4. Plaintiff to file a **final** list of witnesses, together with addresses and brief summary of expected testimony where a witness has not already been deposed, by October 5, 2009.\* Defendant to file a **final** list of witnesses (as described above) **ten (10) days** thereafter.\*
5. Plaintiff to file a **final exhibit** list by October 5, 2009.\* Defendant to file
6. Discovery to be completed by December 4, 2009.

7. All dispositive and *Daubert* motions to be filed by November 6, 2009.

If the deadline for dispositive motions and *Daubert* motions precedes the discovery deadline, the parties are expected to conduct any discovery necessary for such motions in advance of the motion deadline.

8. Trial docket January 11, 2010 \*\*

**\*\*Trial dockets generally begin the second Monday of each month. However, this practice varies, particularly during holidays. The published trial docket will announce the trial setting.**

The interval between the dispositive motion deadline (§ 7) and the trial docket (§ 8) is relatively inflexible. An extension of time to file or respond to a motion for summary judgment will likely affect the trial setting.

9. Designations of deposition testimony to be used at trial to be filed by December 4, 2009. Objections and counter-designations to be filed by 5 days thereafter. Objections to counter-designations to be filed by 5 days thereafter.
10. Motions in limine to be filed by December 4, 2009.
11. Requested voir dire to be filed by December 4, 2009.
12. Trial briefs (optional unless otherwise ordered) to be filed by December 4, 2009.
13. Requested jury instructions to be filed on or before December 4, 2009. \*\*\*

14. Proposed findings and conclusions of law to be filed not later than December 4, 2009. \*\*\*

**\*\*\*In addition to filing, the parties are encouraged, but not required, to submit their proposed jury instructions or findings of fact and conclusions of law in WordPerfect format to the Clerk via the Court's designated mail box: degiusti-orders@okwd.uscourts.gov.**

15. Any objection or responses to the trial submissions referenced in 10, 11, 12, 13, or 14 to be filed within eleven (11) days thereafter.
16. The Final Pretrial Report, approved by all counsel, and in full compliance with Local Rules (*see Appendix IV*), together with a **proposed order approving the report**, to be submitted to the Court by December 4, 2009.

17. This case is referred to ADR:

- ☐ by agreement of the parties, with the approval of the Court:
- ☐ by Order of the Court:
  - ☐ Mediation
  - ☐ Judicial Settlement Conference
  - ☐ Other \_\_\_\_\_

If the case is referred to mediation, early neutral evaluation, or some other form of private ADR, the process shall be completed and a report filed with the Court by the parties, stating whether the case settled, not later than \_\_\_\_\_.

18. **Except as otherwise specifically ordered by the assigned judge, this case will not be scheduled for a judicial settlement conference unless, not later than ten (10) days after the trial docket is published, the parties file a joint motion requesting a judicial settlement conference. The motion shall contain a certification by counsel that the parties have been advised of the motion and approve its filing. The motion shall further describe in detail the settlement efforts made and dispute resolution techniques previously used in the case.**

19. ☐ The parties consent to trial by a Magistrate Judge.

20. Initial disclosures pursuant to Fed. R. Civ. P. 26 have been made ☐; are excused ☐; or ☐ shall be made not later than \_\_\_\_\_.

21. Other: Objections to exhibits must be shown in the Final Pretrial Report or may be deemed waived

Dated this 4th day of March, 2009

BY ORDER OF THE COURT  
ROBERT D. DENNIS, CLERK OF COURT

By:   
Deputy Clerk

Copies to all parties